



Signed and Filed: September 23, 2022

A handwritten signature in black ink, appearing to read "Hannah L. Blumenstiel", is written over a horizontal line.

HANNAH L. BLUMENSTIEL  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re:	)	Case No. 19-31024 HLB
	)	
RICHARD TOM,	)	Chapter 7
	)	
Debtor.	)	
	)	
MARK NG, KENDALL NG, and	)	
LORAIN WONG,	)	Adv. Proc. No. 19-3065 HLB
	)	
Plaintiffs,	)	
v.	)	
	)	
RICHARD TOM,	)	
	)	
Defendant.	)	

AMENDED TWELFTH ORDER REGARDING DISCOVERY DISPUTE

The court hereby amends its Twelfth Order Regarding Discovery Dispute to correct its inadvertent omission of a topic as to which Ms. Bonita Miller shall testify, as ordered in Para. 2, below.

On August 8, 2022, the court issued its Eleventh Order Regarding Discovery Dispute.<sup>1</sup> The Eleventh Order outlined the significant difficulties the Plaintiffs have faced in obtaining the testimony of a competent witness on behalf of Green Oasis

<sup>1</sup> Dkt. 146 (the "Eleventh Order").

1 L.P. ("GOLP") and Pacific Golden Asia LLC ("PGA") pursuant to  
2 Civil Rule 30(b)(6),<sup>2</sup> which applies in this action under  
3 Bankruptcy Rule 7030. The court will not repeat those facts  
4 here.

5 As described in the Eleventh Order, Plaintiffs insist that  
6 GOLP and PGA have failed to comply with the court's prior orders  
7 requiring them to designate a competent witness. They assert  
8 that GOLP and PGA's witness designee, Ms. Bonita Miller, was not  
9 prepared properly for her July 14, 2022 deposition on behalf of  
10 GOLP. Plaintiffs demand that the court once again order GOLP and  
11 PGA to designate a competent witness, and that the court permit  
12 them to file a motion for sanctions. Through their alleged  
13 manager, Ms. Kenesha Fudge, GOLP and PGA contested Plaintiffs'  
14 characterization of Ms. Miller's competence as a witness and  
15 urged the court to deny the relief sought.

16 To facilitate the court's assessment of Ms. Miller's  
17 preparedness for her July 14, 2022 deposition as GOLP's witness  
18 designee under Civil Rule 30(b)(6), the Eleventh Order required  
19 Plaintiffs to provide a transcript of that deposition.  
20 Plaintiffs timely complied,<sup>3</sup> and the court has read the  
21 transcript.  
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24 <sup>2</sup> Unless otherwise indicated, all citations to a "Civil Rule" shall refer to  
25 one of the Federal Rules of Civil Procedure and all citations to a "Bankruptcy  
Rule" shall refer to one of the Federal Rules of Bankruptcy Procedure.

26 <sup>3</sup> Dkt. 149 (Declaration of Kathryn Diemer Authenticating Full Deposition  
27 Transcript of Bonita Miller), Ex. 1 (Certified Transcript of Deposition via  
28 Zoom of Person Most Knowledgeable for [GOLP] - Bonita Miller (July 14, 2022)  
(the "Miller Tr.")).

1 It is clear from Ms. Miller's testimony that GOLP and its  
2 alleged manager, Ms. Fudge, did next to nothing to prepare Ms.  
3 Miller to testify on GOLP's behalf. Ms. Miller testified that  
4 she had "no information" about any of the 28 topics identified in  
5 the relevant deposition subpoena,<sup>4</sup> which served as Exhibit 3 in  
6 her July 14 deposition and which the court has reviewed. A  
7 corporate entity such as GOLP has a "duty to educate its  
8 witnesses so they are prepared to fully answer the questions  
9 posed at the deposition."<sup>5</sup> GOLP entirely failed to fulfill its  
10 obligation under Civil Rule 30(b)(6).

11 That said, many of the topics identified in the deposition  
12 subpoena are irrelevant to this proceeding. The only cause of  
13 action that the court has not yet adjudicated is Plaintiffs'  
14 claim under section 523(a)(2)(A), pursuant to which they seek a  
15 judgment declaring nondischargeable debts arising from the  
16 following pre-petition transfers, in which Plaintiffs allege that  
17 Defendant Richard Tom engaged with intent to hinder and delay  
18 Plaintiffs' efforts to collect a pre-petition judgment:

- 19 • November 16, 2007 Transfer of 50% interest in real  
20 property located at 532-536 Green Street, San Francisco  
21 to GOLP;
- 22 • Transfer of 4% interest in GOLP to Giovanni Torrocca;

23  
24  
25 \_\_\_\_\_  
26 <sup>4</sup> Miller Tr. at 58:18-70:19 (transcript pagination).

27 <sup>5</sup> La. Pac. Corp. v. Money Mkt. 1 Institutional Inv. Dealer, 285 F.R.D. 481,  
28 486 (N.D. Cal. 2012) (quoting Bowoto v. ChevronTexaco Corp., No. C 99-02506  
SI, 2006 WL 294799, \*1 (N.D. Cal. Feb. 7, 2006)).

- 1           • Transfer of 32% interest in GOLP to Ms. Winnie Jiang;<sup>6</sup>
- 2           and
- 3           • Transfer of 14% interest in GOLP to God's Grace
- 4           Irrevocable Trust.

5           Many of the topics on which Plaintiffs sought to question  
6 Ms. Miller have nothing to do with the foregoing transfers.  
7 Specifically, the court finds and concludes that topics 12, 13,  
8 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, and 28 are not  
9 relevant to this action. The other topics (Nos. 1, 2, 3, 4, 5,  
10 6, 7, 8, 9, 10, 11, 14 **and 25**) most certainly are relevant.

11           Given the foregoing, the court **ORDERS** as follows:

12           **1.** No later than **September 30, 2022**, Ms. Bonita Miller, as  
13 GOLP's witness designee under Civil Rule 30(b)(6), shall appear  
14 for a continued deposition. Such deposition may take place in-  
15 person or via Zoom, as the parties might agree.

16           **2.** GOLP shall fully and completely prepare Ms. Miller to  
17 testify on topics 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, **and 25**  
18 set forth in the deposition subpoena;<sup>7</sup> **and**

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25           <sup>6</sup> On February 16, 2022 (Dkt. 45; the "Feb. 16, 2022 Order"), the court granted  
26 Plaintiffs' Motion for Summary Adjudication. As relevant to this Order, the  
27 Feb. 16, 2022 Order concluded that Mr. Tom's transfer of a 32% interest in  
28 GOLP to Ms. Winnie Jiang was intentionally fraudulent and that a debt equal to  
the value of such interest was nondischargeable under section 523(a)(2)(A).  
The value of that 32% interest has yet to be adjudicated.

<sup>7</sup> Miller Tr., Ex. 3.

1       **3.**     Failure to timely and fully comply with this order will  
2 result in sanctions.   Such sanctions might include, but are not  
3 limited to, a finding of contempt and the imposition of monetary  
4 sanctions against GOLP and/or its alleged manager, Ms. Kenesha  
5 Fudge.

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7                   **\*\*END OF ORDER\*\***  
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**Court Service List**

Bonita Miller  
912 Winchester Road, Suite 2  
Huntsville, AL 35811

Bonita Miller  
4219 Teejay Drive  
Huntsville, AL 35810

Kenesha Fudge  
103 Benji Court  
Meridianville, AL 35759

Richard Tom  
536 Green Street, #2  
San Francisco, CA 94133